REMARKS

Claims 15 through 18, 20 through 33, 35 through 48, 50 through 71, and 74 through 77 are pending in this Application. Claims 72 and 73 are being canceled without prejudice or disclaimer. Claims 72 and 73 are being canceled without prejudice or disclaimer. Claims 15 through 18, 20 through 33, 35 through 48, and 50 through 60 have been amended, and new claims 74 through 77 have been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, Abstract, FIG. 8, ¶¶ [0007], [0060], [0063], [0068] through [0070], [0078] through [0081], and [0084] of the corresponding US Pub. No. 20050097624. Applicants submit that the present Amendment does not generate any new matter issue.

Claims 45 through 48, and 50 through 59 were rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter.

In stating the rejection, the Examiner asserted that claims 45 through 48, and 50 through 59 recite "a computer program product for providing broadcast content, the computer program product comprising a computer-readable storage medium" that can be interpreted as transitory signals, directed to non-statutory subject matter. This rejection is traversed.

Specifically, claims 45 through 48, and 50 through 59 have been clarified by reciting "a non-transitory computer-readable storage medium", which constitutes statutory subject matter under 35 U.S.C. §101. Applicants therefore solicit withdrawal of the rejection of claims 45 through 48, and 50 through 59 under 35 U.S.C. §101.

(1) Claims 15 through 18, 20 through 23, 25, 27, 29 through 33, 35 through 38, 40, 42, 44 through 48, 50 through 53, 55, 57, 59 through 67, 69, 71, and 73 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Watson et al.* (US 20040133923, "*Watson*") in view of *Fujinami* (US 7664951).

In stating the rejection, the Examiner asserted that one having ordinary skill in the art would have been led to modify *Watson's* digital home movie library by including *Fujinami's* pre-loaded content synchronizing mechanism, to allow users to watch pre-loaded content in real-time. Applicants respectfully traverse this rejection.

There are fundamental differences between the claimed inventions and the applied references that undermine the obviousness conclusion under 35 U.S.C. §103(a). Specifically, independent claims 15, 30, 45, and 60 recite, *inter alia*: "determine to access at least one piece of pre-broadcast content from the memory no sooner than the scheduled time for broadcast of the same at least one piece of content; and **receive live broadcast of the same at least one piece of content from the content source**." These features are neither disclosed nor suggested by *Watson* and *Fujinami*.

In contrast to the claimed inventions, *Watson*'s digital home movie library is essentially a pay-per-view system that eliminates the trip to the movie rental store and the possibility of being charged for late fees (¶ [0024]). In particular, *Watson* pre-loads movies to the user's home system, and then releases per movie for view on demand. *Watson* replaces on-demand movie transmission with movie pre-loading plus on-demand movie viewing locally. *Watson* discourages, and thus teaches away from "receiving live broadcast of the same at least one piece of content from the content source."

Fujinami balances broadcast load during prime times "as if there were an increase in channels in the prime time (col. 5, lines 48 through 49)." The prime time denotes a time zone in which audience rate is higher than in other time zones; for example, a time zone from 19:00 to 23:00 (col. 5, lines 15-17). As such, two types of broadcasting are available in *Fujinami* during prime time: one is the normal/live broadcasting in which transmitted programs (e.g., Program B, Program C, and Program D in Channel A in FIG. 11) are viewed in real time on the receiver side; and the other type includes programs (e.g., Program X, Program Y in Channel B) that are pre-loaded in non-prime time periods and viewable in prime time (col. 11, lines 31-40 and 55-57; FIGs. 9 & 11). To reduce the broadcast load, a pre-loaded program can only be accessed locally in *Fujinami*, but not to be "received live from the content source."

In addition, as admitted by the Examiner (page 4, 3rd paragraph of the outstanding Office Action), *Watson* fails to disclose "accessing at least one piece of pre-broadcast content from the memory of the apparatus no sooner than the scheduled time for broadcast of the same at least one piece of content." *Fujinami* was said to provide the missing teaching. However, one of ordinary skill in the art would not be motivated to combine the teachings as suggested by the Examiner due to their conflicting principles of operations. In particular, *Watson*'s digital home movie library is essentially a pay-per-view system that enables the user to watch movies **on demand** and eliminate the trip to a rental store. On the other hand, *Fujinami's* TV broadcasting system **strictly enforces the broadcaster's program broadcasting schedule**, especially during the prime time by concurrently playing live broadcast programs and pre-loaded programs (that are **different** from the live broadcast programs) at a receiving apparatus (col. 15, lines 1-5; col. 17, lines 7-15).

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Applicants, therefore, submit that the imposed rejection of claims 15 through 18, 20 through 23, 25, 27, 29 through 33, 35 through 38, 40, 42, 44 through 48, 50 through 53, 55, 57, 59 through 67, 69, 71, and 73 under 35 U.S.C. §103(a) for obviousness based on *Watson* in view of *Fujinami* is not factually or legally viable and, hence, solicit withdrawal thereof.

(2) Claims 24, 26, 28, 39, 41, 43, 54, 56, 58, 68, 70, and 72 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Watson* in view of *Fujinami* and *Connelly et al.* (US 7284064, "*Connelly*").

The rejection is respectfully traversed.

Specifically, claims 24, 26, and 28 depend from independent claim 15; claims 39, 41, and 43 depend from independent claim 30; claims 54, 56, and 58 depend from claim 45; and claims 68, 70, and 72 depend from claim 60. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of independent claims 15, 30, 45, and 60 under 35 U.S.C. §103(a) for obviousness predicated upon *Watson* in view of *Fujinami*. The additional reference to *Connelly* does not cure the previously argued deficiencies in the attempted combination of *Watson* and *Fujinami*. Accordingly, even if the applied references were combined as proposed by the Examiner, and again Applicants do not agree that the requisite fact-based motivation has been established, the claimed inventions would not result. *See Uniroyal, Inc. v. Rudkin-Wiley Corp., supra.* Applicants therefore submit that the above-identified rejection

encompassing claims 24, 26, 28, 39, 41, 43, 54, 56, 58, 68, 70, and 72 under 35 U.S.C. 103(a) are not factually or legally viable and, hence, solicit withdrawal thereof.

New Claims 74 through 77.

New claims 74 through 77 depend from independent claim 30. Applicants submit that claims 74 through 77 are free of the applied prior art for reasons advocated *supra* with respect to independent claim 30. Accordingly, claims 74 through 77 are not taught by the applied prior art.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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